IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 24.03.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.1110 of 2004

1. The District Forest Officer,
Theni, Vaigai Veeran Alagamuthu District.

2. The Forest Ranger,
Megamalai Range,
Kadamalaikundu. .. Appellants

Vs.

Jose J. Palathinkal,
S/o. late Joseph Palathinkal .. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the orderof this Court dated 21.10.2003 made in W.P.No.5597 of 1997.

W.P.No. 5597 of 1997 filed under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the records on the file fo teh second respondent in connection with the order passed by him in his Pro.C 135/1997 dated 8.4.97 on C.No. 135/97 dated 10.4.97 and quash the same.

For Appellant : Mr.Titus Jesudoss
Special Govt. Pleader (Forests)
For Respondent : Mr.R. Singaravelan

JUDGMENT

(Judgment of the Court was delivered by P. SATHASIVAM, J.)

Aggrieved by the order of the learned single Judge dated 21.10.2003 made in W.P.No.5597 of 1997, the District Forest Officer, Theni, Vaigai Veeran Alagamuthu District and the Forest Ranger, Megamalai Range, Kadamalaikundu, have filed the above writ appeal.

2. Heard Mr.Titus jesudoss, Special Government Pleader(Forests) for the appellants.

3. The respondent herein-writ petitioner, questioning the order dated 10.04.1997 of the Forest Ranger, Megamalai Range, Kadamalaikundu, whereby the petitioner was not permitted to use the said path way (road) which

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runs from Kadukkakalam to Ammagajam for any vehicular traffic, has filed the writ petition. The learned single Judge, after hearing the counsel for both parties and on going through the order of the District Forest Officer who permitted the petitioner to use the pathway as road for vehicular traffic after paying necessary fees as per the terms and conditions, quashed the order passed by the second respondent, the Forest Ranger and allowed the writ petition.

4. It is not in dispute that after paying necessary fees as per the terms and conditions of the Forest Department, the writ petitioner was permitted to use the pathway as road for vehicular traffic by the competent authority, viz., District Forest Officer. In such circumstances, the Forest Ranger, who is an officer working under the District Forest Officer, cannot nullify the order of his superior. This aspect was taken note of by the learned single Judge and rightly allowed the writ petition. We are in agreement with the said conclusion arrived at by the learned single Judge and we do not find any merit in the appeal. Consequently, the writ appeal is dismissed. No costs.

5. It is made clear that for any reason, if the authority concerned viz., the District Forest Officer wants to revoke his order or impose conditions, he is free to do the same after affording an opportunity to the respondent herein-writ petitioner.

raa

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The District Forest Officer,
   Theni, Vaigai Veeran Alagamuthu District.

2. The Forest Ranger,
   Megamalai Range,
   Kadamalaikundu.

+ One cc to Mr. R. Singaravelan, Advocate SR 18694
+ One cc to Spl Govt Pleader SR 18641
SSV (co)
sg 2/4/07

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